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08/530,537	09/20/95	AHE	F WATK:0400

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A1M1/0218

EXAMINER	
PREISCH, N	
ART UNIT	PAPER NUMBER
1106	27

DATE MAILED: 02/18/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Office Action Summary

Application No.

08/530,537

Applicant(s)

Abe et al.

Examiner

Nadine Preisch

Group Art Unit

1106



☒ Responsive to communication(s) filed on Dec 2, 1996

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-6 and 11-14 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-6 and 11-14 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103/102(e)*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-6 and 11-14 stand rejected under 35 U.S.C. 102 (e) as anticipated by, or in the alternative 103(a) as being unpatentable over Inoue et al.(5,223,236) or Toyota Jidosha (JA 89-197061/27).

In the pending application applicants claim a composition comprising a high silica zeolite having a Si/Al ratio of not less than 40, and a heat resistant oxide loaded with a noble metal.

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Applicants further claim an adsorbant comprising a honeycomb structure coated with a heat resistant oxide loaded with a noble metal.

The reference of Inoue et al.(5,223,236) teaches a catalyst comprising a high silica zeolite, a heat resistant oxide, and a noble metal. For example, see column 3, lines 47-54. The zeolites used in the reference have a Si/Al ratio of greater than 40.

The reference of Toyota Jidosha teaches a composition comprising of a zeolite, inorganic heat resistant oxides, such a silica, alumina, and a Noble metal such as Pt, Pd, Rh, It, and Ru.

The examiner notes that the references do not teach applicants' honeycomb structure. Furthermore, the examiner notes that the prior art references do no teach the use of a two component system (e.g. A heat resistant oxide and a zeolite).

It is the examiners position that applicants' honeycomb structure limitation is not sufficient to impart patentability, since such structures are well known in the art.

The examiner recognizes that applicants' claimed invention comprises a zeolite and a heat resistant inorganic oxide. However, a zeolite is a heat resistant inorganic oxide. Therefore, examiner considers the composition disclosed by the Inoue et al. reference to teach both the limitations of a heat resistant oxide and a zeolite. Furthermore, the reference of Toyota Jidosha teaches a zeolite and alumina, which is a heat resistant inorganic oxide. The examiner considers the compositions taught by the references to be <sup>two</sup>~~two~~ component systems. Therefore, since essentially the same composition is disclosed by the references of Inoue et al. and Toyota Jidosha, applicants' composition is anticipated by the prior art.

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Therefore, the subject matter sought to be patented would have been obvious to one of ordinary skill in the art at the time the invention was made.

***Response to Arguments***

Applicant's arguments filed 12-2-96 in paper no.26 have been fully considered but they are not persuasive.

With respect to the rejection of claims 1-6 and 11-14 under 35 U.S.C. 102 (e) or 103(a) over Inoue et al.(5,223,236) or Toyota Jidosha (JA 89-197061/27), applicants argue that the claimed compositions distinguish over the applied art because the noble metal is loaded on the inorganic oxide, wherein the inorganic oxide is not a zeolite. Contrastingly, in the applied art the noble metal appears to be loaded on the zeolite.

It is the examiner's position that applicant's claims do not distinguish whether the noble metal component is loaded on the heat resistant inorganic oxide, wherein the heat resistant inorganic oxide does not comprise zeolite, and/or the zeolite component. For instance, applicants' claim "...comprising (a).....and (b)....., being loaded with the noble metal." Therefore, the claim can be interpreted as "(a) and (b)" being loaded with the noble metal. According to the claim, the zeolite can be loaded with noble metals as disclosed by the applied art.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadine Preisch whose telephone number is (703) 305-2667. The examiner can normally be reached on Monday through Thursday from 7:30 am to 6:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

February 19, 1996  
N.P.

N.P.

  
**GLENN A. CALDAROLA**  
**PRIMARY EXAMINER**  
**GROUP 1100**